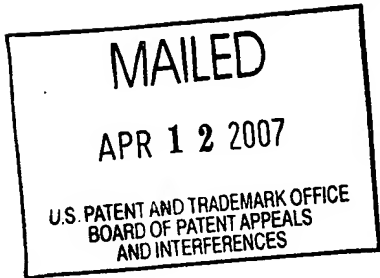


UNITED STATES PATENT AND TRADEMARK OFFICE



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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte ALLAN HERROD, JOHN KLEIN, SAROSH VESUNA  
and SIMON BARD

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Application 10/057,463

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received at the Board of Patent Appeals and Interferences on January 16, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On March 24, 2006, applicant filed a timely Reply Brief. In accordance with the revision effective September 13, 2004, Title 37, Code of Federal Regulations, §'41.43 states:

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(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

An office action was filed on November 29, 2006, stating "Appeal Brief filed on Oct. 31, 2006 has been noticed and will forward to Board of Appeal." For clarification of the record, the examiner needs to verify that the Reply Brief filed March 24, 2006, has been considered.

Accordingly, it is

**ORDERED** that the application is electronically returned to the Examiner for consideration and proper response to the Reply Brief and for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:



PATRICK J. NOLAN

Deputy Chief Appeals Administrator  
(571) 272-9797

PJN/gjh

Application 10/057,463

SYMBOL TECHNOLOGIES, INC.  
ONE SYMBOL PLAZA  
MS/A6  
HOLTSVILLE, NY 11742